S.B. CRIMINAL APPEAL NO.891/2006
(State of Raj. Vs. Gishu Lal)

Date of order : 30.11.2006

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. L.R. Upadhyay, Public Prosecutor.

This criminal appeal under Section 11 of the Probation of Offenders Act is directed against the judgment dated 19.4.2005 passed by Addl. Sessions Judge (Fast Track) No.1, Bhilwara in Sessions Case No.46/2004 wherein the State has prayed that the benefits of Section 4 of the Probation of Offenders Act awarded by the trial court may be quashed and set aside.

Earlier against the selfsame judgment, a criminal leave to appeal No.261/2005 was preferred by State under Section 378 (iii) & (i) Cr.P.C. praying therein that appeal may kindly be allowed and the impugned judgment may kindly be quashed and set aside to the extent of acquittal passed by the trial court and accused-respondent may kindly be convicted and sentenced in accordance with the provisions of law.

The aforesaid criminal appeal was dismissed by this Court on 30.9.2005 while observing that the learned trial court has rightly granted benefit of

Probation of Offenders Act. Meaning thereby, the learned trial while holding the respondent guilty, granted benefits of Section 4 of Probation of Offenders Act.

Once the earlier Criminal Leave to Appeal No.261/2005 preferred against the selfsame judgment was dismissed by this Court while holding that learned trial court has rightly granted benefits of Probation Act, no different opinion need be given in the present appeal.

Accordingly, the appeal is dismissed.

(GOPAL KRISHAN VYAS), J.